

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

ALFREDO VEGA,

Plaintiff,

-vs-

Case No. 11-CV-1046

MICHAEL THURMER, CAPTAIN JOHN O'DONOVAN,
DEPUTY WARDEN DON STRAHOTA, GARY HAMBLIN,
GARY ANKARLO, JEFF GARBELMAN,
DR. DEBORAH FISCHER, and DR. RALPH FROELICH,

Defendants.

ORDER

In an Order entered March 12, 2013, the Court granted the plaintiff's motion for extension of time and directed the plaintiff to file his response to the defendants' motion for summary judgment on or before April 12, 2006. To date, the plaintiff has not filed a response. On April 22, 2013, the defendants filed a letter asking the Court to grant their motion for summary judgment.

Then, on April 29, 2013, the Court received a letter from plaintiff suggesting that his legal papers were confiscated and, as a result, he is unable to respond to the defendants' motion for summary judgment. Although the plaintiff uses the word confiscated, he also submitted a letter from the inmate who was assisting him with his legal work that indicates the materials were mailed to the plaintiff. Accordingly, it appears that the legal

materials were lost in transit rather than confiscated and destroyed, as the plaintiff implies.

The Court is sympathetic to the plaintiff's lack of legal materials, but can only go so far to remedy the situation. As a courtesy, the Court will request that the defendants provide the plaintiff with another copy of their motion for summary judgment and the supporting materials within three days of this order. The Court also will give the plaintiff additional time to respond to the defendants' motion. Nevertheless, this case will be dismissed with prejudice for failure to prosecute, effective **Monday, June 10, 2013**, unless, prior to that date, the plaintiff files a response to the defendants' motion. *See* Civil Local Rule 41.3 (E.D. Wis.) (copy attached).

IT IS THEREFORE REQUESTED that the defendants serve upon the plaintiff within three days of this order their motion for summary judgment and the related documents.

IT IS FURTHER ORDERED that this case be **DISMISSED WITH PREJUDICE**, effective **Monday, June 10, 2013**, unless, prior to that date, the plaintiff files a response to the defendants' motion for summary judgment.

Dated at Milwaukee, Wisconsin, this 8th day of May, 2013.

SO ORDERED,



HON. RUDOLPH T. RANDA
U. S. District Judge

Civil L. R. 41(c) Dismissal for Lack of Diligence

(c) Dismissal for Lack of Diligence. Whenever it appears to the Court that the plaintiff is not diligently prosecuting the action, the Court may enter an order of dismissal with or without prejudice. Any affected party may petition for reinstatement of the action within 21 days.